

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:05CR256-10

UNITED STATES OF AMERICA)

)

)

VS.

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ORDER

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MARK WAYNE ROSS)

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THIS MATTER is before the Court *sua sponte* to continue the trial from the January 2006 term in the Asheville Division.

Defendant was arraigned on December 30, 2005, less than thirty days ago. "Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." **18 U.S.C. § 3161(c)(2)**. The Defendant here has not so consented.

In addition, because counsel was only recently appointed, she has not had an adequate opportunity to prepare for trial, taking into account the exercise of due diligence. The Court, therefore, finds that a failure to grant the continuance "would unreasonably deny the defendant the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence." **18 U.S.C. § 3161(h)(8)(B)(iv).**

For the reasons stated herein, the ends of justice served by the granting of the continuance outweigh the best interests of the public and the Defendant in a speedy trial. **18 U.S.C. § 3161(h)(8)(A).**

IT IS, THEREFORE, ORDERED that this matter is hereby **CONTINUED** from the January 2006 term in the Asheville Division.

IT IS FURTHER ORDERED that this Defendant's case is hereby **SEVERED** from that of his co-Defendants.

Signed: January 3, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

